



IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) Jeffrey D. Meyer et al.

Application No.: 09/560,509

Filing Date: April 27, 2000

Title: INTERNET USAGE DATA RECORDING SYSTEM AND METHOD WITH CONFIGURABLE DATA COLLECTOR SYSTEM

Mail Stop Appeal Brief-Patents  
Commissioner For Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Confirmation No.: 3122

Examiner: Michael Delgado

Group Art Unit: 2143

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APR 21 2004

Technology Center 2100

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith in **triplicate** is the Appeal Brief in this application with respect to the Notice of Appeal filed on Feb. 13, 2004.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$330.00.

**(complete (a) or (b) as applicable)**

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

( ) one month	\$110.00
( ) two months	\$420.00
( ) three months	\$950.00
( ) four months	\$1480.00

( ) The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of \$330.00. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

(X) I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
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Number of pages:

Typed Name: Steven E. Dicke

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Respectfully submitted,

Jeffrey D. Meyer et al.

By Steven E. Dicke

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Appellant: Jeffrey D. Meyer et al.

Examiner: Michael Delgado

Serial-No.: 09/560,509

Group Art Unit: 2143

Filed: April 27, 2000

Docket No.: 10002145-1

Title: INTERNET USAGE DATA RECORDING SYSTEM AND METHOD WITH CONFIGURABLE DATA COLLECTOR SYSTEM

**APPEAL BRIEF TO THE BOARD OF  
PATENT APPEALS AND INTERFERENCES OF THE  
UNITED STATES PATENT AND TRADEMARK OFFICE**

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Dear Sir:

**Appellant's Brief on Appeal**

This brief is presented in support of the Notice of Appeal filed on February 13, 2004, from the final rejection dated November 13, 2003, and the Advisory Action dated February 6, 2004, of the Examiner rejecting claims 1, 2, 4-14, 16-18, and 20-31 of the above identified application. Twenty-eight claims remain for consideration.

The Appeal Brief is filed in triplicate. The U.S. Patent and Trademark Office is hereby authorized the Charge Deposit Account No. 08-2025 in the amount of \$330.00 for filing a Brief in Support of an Appeal as set forth under 37 C.F.R. 1.17(c), however, at any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 08-2025 pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account 08-2025 under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21. Appellant respectfully requests reversal of the Examiner's rejection of pending claims 1, 2, 4-14, 16-18, and 20-31.

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**Real Party in Interest**

The real party in interest is Hewlett-Packard Development Company, LP.

**Related Appeals and Interferences**

There are no other appeals or interferences known to Appellants which will have a bearing on the Board's decision in the present Appeal.

**Status of the Claims**

Claims 1, 2, 4-14, 16-18, and 20-31 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,405,251 Bullard et al.

Claims 3, 15, and 19 have been cancelled. No claims have been allowed. Claims 1, 2, 4-14, 16-18, and 20-31 are appealed herein.

**Status of the Amendments**

No amendments have been entered subsequent to the Final Office Action mailed November 13, 2003. The claims listed in Appendix A reflect the claims as of November 13, 2003. A Response After Final was filed on January 13, 2004, but no amendments to the claims were proposed by Appellants, or entered by the Examiner.

**Summary of the Invention**

The present invention, as claimed in independent claim 1, provides a network usage recording system. The system comprises a collector including an encapsulator for reading a plurality of network data records from a network data source and converting the network data records to a plurality of normalized metered events. An aggregator is included for processing the normalized metered events to create aggregated normalized metered events. A data storage system is provided, wherein the aggregator periodically stores the aggregated normalized metered events in the data storage system. A configuration server is in communication with the encapsulator, the aggregator and the data storage system, wherein

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the configuration server stores configuration data for the encapsulator, the aggregator, and the data storage system that determines whether the collector operates as a network data collector or a correlator collector. (Page 10, line 10 to page 24, line 22; and Figures. 1-3, 5, and 6 reference numbers 50-220.)

In another embodiment, the present invention, as claimed in independent claim 14, provides a network usage recording system. The system comprises a collector system including a collector shell, a query manager, an encapsulator, an aggregator, and a data storage system. A configuration server is in communication with the encapsulator, the aggregator and the data storage system. The configuration server stores configuration data for the collector system that determines whether the collector system operates as a network data collector or a correlator collector. (Page 10, line 10 to page 24, line 22; and Figures. 1-3, 5, 6, reference numbers 50-220.)

In another embodiment, the present invention, as claimed in independent claim 17, provides a method for recording network usage. The method comprises defining a collector including an encapsulator, an aggregator and a data storage system. The encapsulator is operated to read a plurality of network data records from a network data source and convert the network data records to a plurality of normalized metered events. The plurality of normalized metered events are aggregated to create a plurality of aggregated normalized metered events. The aggregated normalized metered events are stored in the data storage system at periodic intervals. A configuration server is defined, in communication with the encapsulator, the aggregator and the data storage system. Configuration data is stored for the encapsulator, the aggregator and the data storage system in the configuration server, where the configuration data determines whether the collector operates as a network data collector or a correlator collector. (Page 10, line 10 to page 24, line 22; and Figures 1-6, reference numbers 50-220.)

In another embodiment, the present invention, as claimed in independent claim 24, provides a computer readable medium containing instructions for controlling a computer system to perform a method for recording network usage. The computer readable medium comprises logic for defining a collector including an encapsulator, an aggregator and a data storage system. Logic is provided for operating the encapsulator to read a plurality of

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network data records from a network data source and convert the network data records to a plurality of normalized metered events. Logic is provided for aggregating the plurality of normalized metered events to create a plurality of aggregated normalized metered events. Logic is provided for storing the aggregated normalized metered events in the data storage system at periodic intervals. Logic is also provided for defining a configuration server in communication with the encapsulator, the aggregator and the data storage system, and storing configuration data for the encapsulator, the aggregator and the data storage system in the configuration server where the configuration data determines whether the collector operates as a network data collector or a correlator collector. (Page 7, lines 18-27; page 10, line 10 to page 24, line 22; and Figures 1-6, reference numbers 50-220.)

In another embodiment, the present invention, as claimed in independent claim 25, provides a network usage recording system. The system comprises a plurality of configurable collectors, where each collector is configurable to operate as one of a plurality of collector types, the collector types including a data collector and a correlator collector. A configuration server is provided in communication with each configurable collector, where the configuration server stores configuration data for each configurable collector that determines the collector type for each collector, and once the configuration data is transferred to each configurable collector, each configurable collector becomes the collector type associated with the configuration data. (Page 10, line 10 to page 24, line 22; and Figures. 1-6, reference numbers 50-220.)

**Issue Presented for Review**

Whether the rejection of claims 1, 2, 4-14, 16-18, and 20-31 in the Final Office Action mailed November 13, 2003, under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,405,251 Bullard et al. is valid.

**Grouping of the Claims**

The claims do not stand or fall together, but are grouped as follows and each group is believed to be patentable.

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- I. Claims 1, 2, and 4-13.
- II. Claims 14 and 16.
- III. Claims 17, 18, and 20-23.
- IV. Claim 24.
- V. Claims 25-31.

**Argument**

**I. The rejection of claims 1, 2, and 4-13 under 35 U.S.C. 102(e)**

In the Final Office Action mailed November 13, 2003, the Examiner rejected claims 1, 2, and 4-13 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,405,251 Bullard et al. (hereinafter "Bullard"). Applicant submits that independent claim 1 is not anticipated by Bullard.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. For Example, see *In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. See *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

Applicant submits that the Bullard reference fails to disclose each and every element of the invention of independent claim 1. Independent claim 1 recites a network usage recording system. The system comprises a collector including an encapsulator for reading a plurality of network data records from a network data source and converting the network data records to a plurality of normalized metered events. An aggregator is included for processing the normalized metered events to create aggregated normalized metered events. A data storage system is provided, wherein the aggregator periodically stores the aggregated normalized metered events in the data storage system. A configuration server is in communication with the encapsulator, the aggregator and the data storage system, wherein the configuration server stores configuration data for the encapsulator, the aggregator, and the

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data storage system that determines whether the collector operates as a network data collector or a correlator collector.

Bullard discloses a system for enhancement of network accounting records. The system includes a data collector layer that is a distributed layer of individual data collectors 18. The data collectors 18 collect raw accounting information and convert data into normalized records referred to as network accounting records (NARs). Each of the data collectors forward network accounting records to a flow aggregation processor 60, a central collection point for all network accounting records produced from various data collectors 18 in the data collection layer 18. The flow aggregation processor 60 aggregates and/or enhances record data across the network devices to produce summary NARs' (See Bullard, column 4, lines 1-26 and Fig. 1), (column 18, lines 39-49).

In reference to Bullard Fig. 14, flow data collector 52 include several NAR processing components or processes, including a NAR constructor 306, a correlator 308, an enhancement process 310 and an aggregator 312. Each equipment interface is associated with a flow data collector. Memory 304 also includes a flow data collector configuration file 318. The configuration file 318 is provided at startup to configure the flow data collector 52. The configuration file 318 includes a time parameter 320 and a policy 322. The NAR 304 received from network devices are processed in accordance with the policy 322 of the configuration file. NAR are transferred to the flow aggregation processor 60 when the time specified by the time parameter 320 expires. See Bullard, column 15, lines 45-67 through column 16, lines 1-12.

In reference to Bullard Figure 31, a service management feedback process 750 includes three components, service provisioning 752, policy server 754 and service accounting 756. Service provisioning 752 sends requests to the policy server 754 to obtain an appropriate active policy, and obtaining rules and domain information from the policy server. See Bullard, column 32, lines 43-49. Policy server 754 keeps enforcement of the levels of quality that are offered by different service types specified in an Internet Service Provider (ISP) contract. See Bullard, column 33, lines 61-63.

Bullard fails to disclose a network usage recording system as recited in claim 1. This claim recites a collector including an **encapsulator, an aggregator and a data storage**



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**system component, and a configuration server in communication with the encapsulator, the aggregator and the data storage system, wherein the configuration server stores configuration data for the encapsulator, the aggregator, and the data storage system that determines whether the collector operates as a network data collector or a correlator collector.** (Emphasis added). In contrast, Bullard teaches data collectors configured to interface with various network devices or technologies. The data collectors are connected to a central flow aggregator processor. Bullard fails to teach different types of collectors, a data collector or a correlator collector, as claimed by Applicant. Further, each type of collector includes an encapsulator, aggregator and data storage system components, where the configuration server stores configuration data such that the collector can operate as a network data collector or a correlator collector. As claimed, the same architecture can be used for each type of collector, regardless of whether it operates as a data collector or a correlator collector.

Applicant's invention includes a configuration server that determines whether the collector operates as a network data collector or a correlator collector. The "policy server" disclosed by Bullard is not a configuration server as claimed by Applicant. The policy server is disclosed as specifying a level of service for the network based on an ISP service agreement or contract. Bullard recites a service management loop, including a template that is fed into a service provision application that produces a configuration file sent out to the network specifying a level of service for the network. (Column 32, lines 28-65). Again, Bullard fails to disclose a configuration server that determines whether the collector operates as a data collector or a correlator collector.

The network usage recording system of independent claim 1 is not disclosed in Bullard. Applicant respectfully submits that the above rejection under 35 U.S.C. § 102(e) should be withdrawn.

Dependent claims 2 and 4-13 depend directly or indirectly upon independent claim 1. Accordingly, dependent claims 2 and 4-13 are also allowable over the art of record.

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**II. The rejection of claims 14 and 16 under 35 U.S.C. 102(e)**

In the Final Office Action mailed November 13, 2003, the Examiner rejected claims 14 and 16 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,405,251 Bullard et al. Applicant submits that independent claim 14 is not anticipated by Bullard.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. For Example, see *In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. See *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

Applicant submits that the Bullard reference fails to disclose each and every element of the invention of independent claim 14. Claim 14 recites a network usage recording system. The system comprises a collector system including a collector shell, a query manager, an encapsulator, an aggregator, and a data storage system. A configuration server is in communication with the encapsulator, the aggregator and the data storage system. The configuration server stores configuration data for the collector system that determines whether the collector system operates as a network data collector or a correlator collector.

Bullard fails to disclose a network usage recording system as recited in claim 14. This claim recites a collector system including a **collector shell, a query manager, an encapsulator, an aggregator and a data storage system** component, and a **configuration server in communication with the encapsulator, the aggregator and the data storage system, wherein the configuration server stores configuration data for the collector that determines whether the collector system operates as a network data collector or a correlator collector.** (Emphasis added). In contrast, Bullard teaches data collectors configured to interface with various network devices or technologies. The data collectors are connected to a central flow aggregator processor. Bullard fails to teach different types of collectors, a data collector or a correlator collector, as claimed by Applicant. Further, each type of collector includes an encapsulator, aggregator and data storage system components, where the configuration server stores configuration data such that the collector can operate as a network data collector or a correlator collector. As claimed, the same architecture can be

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used for each type of collector, regardless of whether it operates as a data collector or a correlator collector.

Applicant's invention includes a configuration server that determines whether the collector operates as a network data collector or a correlator collector. The "policy server" disclosed by Bullard is not a configuration server as claimed by Applicant. The policy server is disclosed as specifying a level of service for the network based on an ISP service agreement or contract. Bullard recites a service management loop, including a template that is fed into a service provision application that produces a configuration file sent out to the network specifying a level of service for the network. (Column 32, lines 28-65). Again, Bullard fails to disclose a configuration server that determines whether the collector operates as a data collector or a correlator collector. Applicant submits that Bullard does not teach or suggest these claim recitations. Withdrawal of the above rejection of independent claim 14 under 35 U.S.C. § 102(e) is also requested.

Dependent claim 16 depends directly upon independent claim 14. Accordingly, this dependent claim is allowable over the art of record.

**III. The rejection of claims 17, 18, and 20-23 under 35 U.S.C. 102(e)**

In the Final Office Action mailed November 13, 2003, the Examiner rejected claims 17, 18, and 20-23 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,405,251 Bullard et al. Applicant submits that independent claim 17 is not anticipated by Bullard.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. For Example, see *In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. See *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

Applicant submits that the Bullard reference fails to disclose each and every element of the invention of independent claim 17. Claim 17 recites a method for recording network usage. The method comprises defining a collector including an encapsulator, an aggregator and a data storage system. The encapsulator is operated to read a plurality of network data records from a network data source and convert the network data records to a plurality of

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normalized metered events. The plurality of normalized metered events are aggregated to create a plurality of aggregated normalized metered events. The aggregated normalized metered events are stored in the data storage system at periodic intervals. A configuration server is defined, in communication with the encapsulator, the aggregator and the data storage system. Configuration data is stored for the encapsulator, the aggregator and the data storage system in the configuration server, where the configuration data determines whether the collector operates as a network data collector or a correlator collector.

Bullard fails to disclose a method for recording network usage as recited in claim 14. This claim recites defining a collector including an **encapsulator, an aggregator and a data storage system** component, defining a **configuration server in communication with the encapsulator, the aggregator and the data storage system, and storing the configuration data for the encapsulator, the aggregator, and the data storage system in the configuration server where the configuration data determines whether the collector operates as a network data collector or a correlator collector.** (Emphasis added). In contrast, Bullard teaches data collectors configured to interface with various network devices or technologies. The data collectors are connected to a central flow aggregator processor. Bullard fails to teach different types of collectors, a data collector or a correlator collector, as claimed by Applicant. Further, each type of collector includes an encapsulator, aggregator and data storage system components, where the configuration server stores configuration data such that the collector can operate as a network data collector or a correlator collector. As claimed, the same architecture can be used for each type of collector, regardless of whether it operates as a data collector or a correlator collector.

Applicant's invention includes a configuration server that determines whether the collector operates as a network data collector or a correlator collector. The "policy server" disclosed by Bullard is not a configuration server as claimed by Applicant. The policy server is disclosed as specifying a level of service for the network based on an ISP service agreement or contract. Bullard recites a service management loop, including a template that is fed into a service provision application that produces a configuration file sent out to the network specifying a level of service for the network. (Column 32, lines 28-65). Again, Bullard fails to disclose a configuration server that determines whether the collector operates

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as a data collector or a correlator collector. Applicant submits that Bullard does not teach or suggest these claim recitations. Withdrawal of the above rejection of independent claim 17 under 35 U.S.C. § 102(e) is also requested.

Dependent claims 20-23 depend directly or indirectly upon independent claim 17. Accordingly, these dependent claims are allowable over the art of record.

**IV. The rejection of claim 24 under 35 U.S.C. 102(e)**

In the Final Office Action mailed November 13, 2003, the Examiner rejected claim 24 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,405,251 Bullard et al. Applicant submits that independent claim 24 is not anticipated by Bullard.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. For Example, see *In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. See *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

Applicant submits that the Bullard reference fails to disclose each and every element of the invention of independent claim 24. Claim 24 recites a computer readable medium containing instructions for controlling a computer system to perform a method for recording network usage. The computer readable medium comprises logic for defining a collector including an encapsulator, an aggregator and a data storage system. Logic is provided for operating the encapsulator to read a plurality of network data records from a network data source and convert the network data records to a plurality of normalized metered events. Logic is provided for aggregating the plurality of normalized metered events to create a plurality of aggregated normalized metered events. Logic is provided for storing the aggregated normalized metered events in the data storage system at periodic intervals. Logic is also provided for defining a configuration server in communication with the encapsulator, the aggregator and the data storage system, and storing configuration data for the encapsulator, the aggregator and the data storage system in the configuration server where the configuration data determines whether the collector operates as a network data collector or a correlator collector.

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Bullard fails to disclose a computer readable medium containing instructions for controlling a computer system to perform a method of recording network usage as recited in claim 24. This claim recites defining a collector including an **encapsulator, an aggregator and a data storage system** component, defining a **configuration server in communication with the encapsulator, the aggregator and the data storage system, and storing configuration data for the encapsulator, the aggregator, and the data storage system in the configuration server where the configuration data determines whether the collector operates as a network data collector or a correlator collector**. (Emphasis added). In contrast, Bullard teaches data collectors configured to interface with various network devices or technologies. The data collectors are connected to a central flow aggregator processor. Bullard fails to teach different types of collectors, a data collector or a correlator collector, as claimed by Applicant. Further, each type of collector includes an encapsulator, aggregator and data storage system components, where the configuration server stores configuration data such that the collector can operate as a network data collector or a correlator collector. As claimed, the same architecture can be used for each type of collector, regardless of whether it operates as a data collector or a correlator collector.

Applicant's invention includes a configuration server that determines whether the collector operates as a network data collector or a correlator collector. The "policy server" disclosed by Bullard is not a configuration server as claimed by Applicant. The policy server is disclosed as specifying a level of service for the network based on an ISP service agreement or contract. Bullard recites a service management loop, including a template that is fed into a service provision application that produces a configuration file sent out to the network specifying a level of service for the network. (Column 32, lines 28-65). Again, Bullard fails to disclose a configuration server that determines whether the collector operates as a data collector or a correlator collector. Applicant submits that Bullard does not teach or suggest these claim recitations. Withdrawal of the above rejection of independent claim 24 under 35 U.S.C. § 102(e) is also requested.

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**V. The rejection of claims 25-31 under 35 U.S.C. 102(e)**

In the Final Office Action mailed November 13, 2003, the Examiner rejected claims 25-31 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,405,251 Bullard et al. Applicant submits that independent claim 25 is not anticipated by Bullard.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. For Example, see *In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. See *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

Applicant submits that the Bullard reference fails to disclose each and every element of the invention of independent claim 25. Claim 25 recites a network usage recording system. The system comprises a plurality of configurable collectors, where each collector is configurable to operate as one of a plurality of collector types, the collector types including a data collector and a correlator collector. A configuration server is provided in communication with each configurable collector, where the configuration server stores configuration data for each configurable collector that determines the collector type for each collector, and once the configuration data is transferred to each configurable collector, each configurable collector becomes the collector type associated with the configuration data.

Bullard fails to disclose a network usage recording system as recited in claim 14. This claim recites a **plurality of configurable collectors, where each collector is configurable to operate as one of a plurality of collector types, the collector types including a data collector and a correlator collector, and a configuration server in communication with each configurable collector, where the configuration server stores configuration data for each configurable collector that determines the collector type for each collector, and once the configuration data is transferred to each configurable collector, each configurable collector becomes the collector type associated with the configuration data.** (Emphasis added). In contrast, Bullard teaches data collectors configured to interface with various network devices or technologies. The data collectors are connected to a central flow aggregator processor. Bullard fails to teach different types of collectors, a data collector or a correlator collector, as claimed by Applicant. Further, each

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type of collector includes an encapsulator, aggregator and data storage system components, where the configuration server stores configuration data such that the collector can operate as a network data collector or a correlator collector. As claimed, the same architecture can be used for each type of collector, regardless of whether it operates as a data collector or a correlator collector.

Applicant's invention includes a configuration server that determines whether the collector operates as a network data collector or a correlator collector. The "policy server" disclosed by Bullard is not a configuration server as claimed by Applicant. The policy server is disclosed as specifying a level of service for the network based on an ISP service agreement or contract. Bullard recites a service management loop, including a template that is fed into a service provision application that produces a configuration file sent out to the network specifying a level of service for the network. (Column 32, lines 28-65). Again, Bullard fails to disclose a configuration server that determines whether the collector operates as a data collector or a correlator collector. Applicant submits that Bullard does not teach or suggest these claim recitations. Withdrawal of the above rejection of independent claim 25 under 35 U.S.C. § 102(e) is also requested.

Dependent claims 26-31 depend directly or indirectly upon independent claim 25. Accordingly, dependent claims 26-31 are also allowable over the art of record.



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**Conclusion**

For above reasons, Appellants respectfully submit that the cited art neither anticipates nor renders the claimed invention obvious, and therefore the claimed invention does patentably distinguish over the cited art. Therefore, Appellants respectfully submit that the rejections to pending claims 1, 2, 4-14, 16-18, and 20-31 are in error. Thus, Appellants respectfully request that the Board reverse the Examiner and find all pending claims allowable.

The U.S. Patent and Trademark Office is hereby authorized the Charge Deposit Account No. 08-2025 in the amount of \$330.00 for filing a Brief in Support of an Appeal as set forth under 37 C.F.R. 1.17(c), however, at any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 08-2025 pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account 08-2025 under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Any inquiry regarding this Appeal Brief to the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office should be directed to either Steven E. Dicke at Telephone No. (612) 573-2002, Facsimile No. (612) 573-2005 or Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

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**CERTIFICATE UNDER 37 C.F.R. 1.8:** The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 13 day of April, 2004.

By Steven E. Dicke  
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**Appendix A**

1. (Previously Presented) A network usage recording system comprising:  
a collector including:  
an encapsulator for reading a plurality of network data records from a network data source and converting the network data records to a plurality of normalized metered events;  
an aggregator for processing the normalized metered events to create aggregated normalized metered events; and  
a data storage system, wherein the aggregator periodically stores the aggregated normalized metered events in the data storage system; and  
a configuration server in communication with the encapsulator, the aggregator and the data storage system, wherein the configuration server stores configuration data for the encapsulator, the aggregator, and the data storage system that determines whether the collector operates as a network data collector or a correlator collector.
2. (Original) The system of claim 1, wherein the aggregator includes volatile memory for temporary storage of the aggregated normalized metered events.
3. (Cancelled)
4. (Previously Presented) The system of claim 1, wherein the configuration server communicates the configuration data to the encapsulator, the aggregator and the data storage system at start-up.
5. (Previously Presented) The system of claim 1, further comprising a collector shell, wherein the configuration server communicates with the encapsulator, the aggregator and the data storage system via a collector shell.
6. (Original) The system of claim 1, further comprising a query manager in

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6. (Original) The system of claim 1, further comprising a query manager in communication with the data storage system for querying the data storage system.
7. (Original) The system of claim 6, wherein the query manager is in communication with the data storage system via the aggregator.
8. (Original) The system of claim 1, further comprising a statistics log, wherein the statistics log is in communication with the encapsulator, the aggregator and the data storage system for logging statistical data.
9. (Original) The system of claim 8, further comprising a collector operator, wherein the collector operator communicates with the encapsulator, the aggregator, the data storage system and the statistics log to provide administrative access.
10. (Previously Presented) The system of claim 1, wherein the encapsulator further includes a parser for parsing network data received from the network data source.
11. (Original) The system 1, wherein the collector is configured as a network data collector.
12. (Original) The system of claim 1, wherein the collector is configured as a correlator collector.
13. (Original) The system of claim 1, wherein the collector is configured to perform additional levels of data reduction and consolidation of data stored in other collectors.
14. (Previously Presented) A network usage recording system comprising:  
a collector system including:  
a collector shell;

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a query manager;

an encapsulator;

an aggregator;

a data storage system; and

a configuration server in communication with the encapsulator, the aggregator and the data storage system, the configuration server stores configuration data for the collector that determines whether the collector system operates as a network data collector or a correlator collector.

15. (Cancelled)

16. (Previously Presented) The system of claim 14, wherein the configuration server communicates with the encapsulator, the aggregator and the data storage system via the collector shell.

17. (Previously Presented) A method for recording network usage comprising:  
defining a collector including an encapsulator, an aggregator and a data storage system;

operating the encapsulator to read a plurality of network data records from a network data source and convert the network data records to a plurality of normalized metered events;

aggregating the plurality of normalized metered events to create a plurality of aggregated normalized metered events;

storing the aggregated normalized metered events in the data storage system at periodic intervals;

defining a configuration server in communication with the encapsulator, the aggregator and the data storage system; and

storing configuration data for the

encapsulator, the aggregator and the data storage system in the configuration server

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where the configuration data determines whether the collector operates as a network data collector or a correlator collector.

18. (Previously Presented) The method of claim 17, further comprising defining the aggregator to include volatile memory and storing the aggregated normalized metered events temporarily in the volatile memory.

19. (Cancelled)

20. (Previously Presented) The method of claim 17, further comprising the step of transferring the configuration data to the encapsulator, the aggregator and the data storage system at start-up.

21. (Original) The method of claim 17, further comprising the step of defining a query manager in communication with the data storage system for managing queries of the data storage system.

22. (Original) The method of claim 17, further comprising the step of defining a statistics log in communication with the encapsulator, the aggregator and the data storage system, and collecting statistics associated with the encapsulator, the aggregator and the data storage system in the statistics log.

23. (Original) The method of claim 17, further comprising the step of parsing the network data records from the usage data source read by the encapsulator.

24. (Previously Presented) A computer readable medium containing instructions for controlling a computer system to perform a method for recording network usage comprising:  
defining a collector including an encapsulator, an aggregator and a data storage system;

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operating the encapsulator to read a plurality of network data records from a network data source and convert the network data records to a plurality of normalized metered events;

aggregating the plurality of normalized metered events to create a plurality of aggregated normalized metered events;

storing the aggregated normalized metered events in the data storage system at periodic intervals; and

defining a configuration server in communication with the encapsulator, the aggregator and the data storage system; and

storing configuration data for the encapsulator, the aggregator and the data storage system in the configuration server where the configuration data determines whether the collector operates a network data collector or a correlator collector.

25. (Previously Presented) A network usage recording system comprising:

a plurality of configurable collectors, where each collector configurable to operate as one of a plurality of collector types, the collector types including a data collector and a correlator collector;

a configuration server in communication with each configurable collector, where the configuration server stores configuration data for each configurable collector that determines the collector type for each collector, and once the configuration data is transferred to each configurable collector, each configurable collector becomes the collector type associated with the configuration data.

26. (Previously Presented) The system of claim 25, wherein the collector types include an aggregator collector.

27. (Previously Presented) The system of claim 25, where each configurable collector includes three configurable components: an encapsulator, an aggregator and a data storage system.

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28. (Previously Presented) The system of claim 27, where the configuration data includes encapsulator configuration data, aggregator configuration data and data storage system configuration data.

29. (Previously Presented) The system of claim 27, wherein the configuration data includes aggregator configuration data, and where the aggregator configuration data includes a flush policy, aggregation scheme and rules.

30. (Previously Presented) The system of claim 25, where each configurable collector independently queries the configuration server for configuration data, and the configuration server transfers the configuration data for each configurable collector to the corresponding configurable collector.

31. (Previously Presented) The system of claim 30, where each configurable collector queries the configuration server at start-up of the configurable collector.